IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1489 of 2004
With
SPECIAL CIVIL APPLICATION No. 1490 of 2004
With
SPECIAL CIVIL APPLICATION No. 1527 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BARODA DISTRICT PANCHAYAT - Petitioner(s)

Versus

GUMANSINH CHHATRASINH RANA - Respondent(s)

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Appearance :
MR HS MUNSHAW for Petitioner(s)
MR MTM HAKIM for Respondent(s)
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/09/2005

ORAL JUDGMENT

In this group of three petitions, similar questions of facts and law arise and therefore they were heard

together and are being disposed of by this common judgment.

2. In these petitions, the petitioner-employer, Baroda District Panchayat, has challenged the legality of the three different awards, all dated 10th October, 2003 passed by the Labour Court, Baroda in reference (LCB) Nos.378/95, 319/98 and 348/95. By the impugned awards, references of the respondents-workmen concerned who are three in number were allowed in part and the workmen were directed to be reinstated in service with 50 per cent backwages. The Labour Court came to the conclusion that the workmen had worked for more than 240 days during the relevant period and the provisions of section 25-F of the Industrial Disputes Act were not followed before terminating their service.

3. Before the Labour Court, the petitioner was not in a position to produce sufficient material regarding the number of days that the workmen had worked. Learned advocate Mr.Munshaw appearing for the petitioner submitted that at the relevant time, records of the petitioner were not readily available. Now at least substantial portion of the records are available, he

submits that if given a chance, the petitioner would be able to show that the workmen had not worked for 240 days. He submits that the petitioner which is a Government department should not be made to suffer on account of non-production of documents. Learned advocate Mr.Hakim appearing for the respondents submitted that the workmen are waiting to receive benefits of the awards passed in the year 2003. Even if the proceedings are to be remanded, the same should be conditional.

4. Considering the submissions made, I find it appropriate to give an opportunity to the petitioner to produce relevant documents and records before the Labour Court. For the above purpose, the impugned awards dated 20th October, 2003 are quashed. The proceedings of Reference (LCB) Nos.378/95, 319/98 & 348/95 are remanded to the Labour Court for fresh consideration after permitting both sides to lead further evidence. The Labour Court may give priority consideration to the remand proceedings and may endeavour to dispose of the same within six months from the date of receipt of a copy of this order, as far as possible.

5. It is not in dispute that Shri Gumansinh Chhatrasinh

Rana, respondent in Special Civil Application No.1489 of 2004 and Shri Bhikhabhai Chhotubhai Vasava who is respondent in Special Civil Application No.1527 of 2004 have crossed the age of superannuation. It is also not in dispute that Shri Ishvarbhai Motibhai Chavda who is respondent in Special Civil Application No.1490 of 2004 has yet not crossed the age of superannuation. Considering the situation, it is directed that the petitioner shall pay cost of Rs.5,000/- (Rupees five thousand) each to all the three workmen. Additionally, respondent in Special Civil Application No.1490 of 2004, Ishvarbhai Motibhai Chavda will be reinstated in service subject to the final outcome of the proceedings which are remanded to the Labour Court.

6. With the above directions, the petitions are disposed of. Rule in each petition is made absolute to the aforesaid extent.

(Akil Kureshi, J.)

(vjn)